

HOUSE BILL 880

By Johnson P

AN ACT to amend Tennessee Code Annotated, Title 4;  
Title 12; Title 41, Chapter 2 and Title 50, relative to  
"The Tennessee Immigration Compliance Act".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "The Tennessee Immigration Compliance Act". All requirements of this act concerning immigration or the classification of immigration status shall be construed in conformity with federal immigration law.

SECTION 2. Tennessee Code Annotated, Title 4, Chapter 3, Part 20, is amended by adding the following language as a new section:

Section 4-3-2015.

(a) The commissioner of safety is authorized to negotiate the terms of a memorandum of understanding between the state of Tennessee and the United States department of justice or the federal department of homeland security concerning the enforcement of federal immigration laws in the state of Tennessee.

(b) Any such memorandum of understanding shall be signed on behalf of the state of Tennessee by the governor and the commissioner of safety or as otherwise required by the appropriate federal agency.

(c) The commissioner of safety may designate that appropriate officers of the Tennessee highway patrol be trained pursuant to any such memorandum of understanding.

(d) Funding for such training shall be borne by the department of safety or as otherwise provided pursuant to federal funding sources.

SECTION 3. Tennessee Code Annotated, Title 4, Chapter 7, Part 1, is amended by adding the following language as a new section:

Section 4-7-121.

A highway patrol officer certified as trained in accordance with a memorandum of understanding between the state of Tennessee and the United States department of justice or the federal department of homeland security pursuant to § 4-3-2015 is authorized to enforce federal immigration laws while performing within the scope of such highway patrol officer's authorized duties.

SECTION 4. Tennessee Code Annotated, Title 41, Chapter 2, is amended to add a new section thereto, as follows:

Section 41-2-152.

(a) When any person charged with a felony or with driving under the influence pursuant to Title 55, Chapter 10, Part 4, is confined, for any period, in the workhouse or jail of any municipality or county, a reasonable effort shall be made to determine the nationality of the person so confined.

(b) If the prisoner is a foreign national, the keeper of the workhouse or jail, or other officer shall make a reasonable effort to verify that the prisoner has been lawfully admitted to the United States and if lawfully admitted, that such lawful status has not expired. If verification of lawful status can not be made from documents in the possession of the prisoner, verification shall be made within forty-eight (48) hours through a query to the Law Enforcement Support Center (LESC) of the United States department of homeland security or other office or agency designated for that purpose by the United States department of homeland security. If the prisoner is determined not to be lawfully admitted to the United States, the keeper of the workhouse or jail, or other officer shall notify the United States department of homeland security.

(c) Nothing in this section shall be construed to deny a person bond or from being released from confinement when such person is otherwise eligible for release.

SECTION 5. Tennessee Code Annotated, Title 4, is amended by adding Section 6 as new Chapter 53.

SECTION 6.

(a) Except as provided in subsection (c) of this section or where exempted by federal law, on or after January 1, 2008, every agency or a political subdivision of this state shall verify the lawful presence in the United States of any natural person eighteen (18) years of age or older who has applied for state or local public benefits, as defined in 8 U.S.C. Section 1621, or for federal public benefits, as defined in 8 U.S.C. Section 1611, that is administered by an agency or a political subdivision of this state.

(b) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

(c) Verification of lawful presence under this section shall not be required:

(1) For any purpose for which lawful presence in the United States is not required by law, ordinance, or regulation;

(2) For assistance for health care items and services that are necessary for the treatment of an emergency medical condition, as defined in 42 U.S.C. Section 1396b(v)(3), of the alien involved and are not related to an organ transplant procedure;

(3) For short-term, noncash, in-kind emergency disaster relief;

(4) For public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease; or

(5) For programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelter specified by the United States attorney general, in the United States attorney general's sole and unreviewable

discretion after consultation with appropriate federal agencies and departments, which is necessary for the protection of life or safety.

(6) For prenatal care; or

(7) For postsecondary education, whereby the board of regents of the state university and community college system and the University of Tennessee board of trustees shall prescribe policies regarding postsecondary benefits that comply with all federal law, including but not limited to public benefits as described in 8 U.S.C. Section 1611, 1621, or 1623.

(d) Verification of lawful presence in the United States by the agency or political subdivision required to make such verification shall occur as follows:

(1) The applicant must execute an affidavit that he or she is a United States citizen or legal permanent resident eighteen (18) years of age or older; or

(2) The applicant must execute an affidavit that he or she is a qualified alien or nonimmigrant under the federal Immigration and Nationality Act eighteen (18) years of age or older lawfully present in the United States.

(e) For any applicant who has executed an affidavit that he or she is an alien lawfully present in the United States, eligibility for benefits shall be made through the Systematic Alien Verification of Entitlement (SAVE) program operated by the United States department of homeland security or a successor program designated by the United States department of homeland security. Until such eligibility verification is made, the affidavit may be presumed to be proof of lawful presence for the purposes of this section.

(f) Any person who knowingly makes a false, fictitious, or fraudulent statement of representation in an affidavit executed pursuant to subsection (d) of this section shall be guilty of the criminal offense of perjury.

(g) Agencies or political subdivisions of this state may adopt variations to the requirements of this section to improve efficiency or to reduce delay in the verification process or to provide for adjudication of unique individual circumstances where the verification procedures in this section would impose unusual hardship on a legal resident of Tennessee.

(h) No agency or a political subdivision of this state shall provide any state, local, or federal benefit, as defined in 8 U.S.C. Section 1621 or 8 U.S.C. Section 1611, in violation of this section. Each state agency or department which administers any program of state or local public benefits shall provide an annual report with respect to its compliance with this section.

(i) Any and all errors and significant delays by SAVE shall be reported to the United States department of homeland security and to the commissioner of labor and workforce development. The commissioner of labor and workforce development shall monitor SAVE, its verification application errors and significant delays and report annually to the United States department of homeland security and to the speaker of the senate and the speaker of the house of representatives on such errors and significant delays to ensure that the application of SAVE is not wrongfully denying benefits to legal residents of Tennessee.

SECTION 7. This act shall take effect January 1, 2008, the public welfare requiring it.